

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

The Honorable Michael G. Nettles, Circuit Court Judge

RECEIVED

AUG 29 2016

SC Court of Appeals

Case No. 2016-001526

The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the benefit of Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2006-E,.....

Respondent,

v.

Charles Taylor, Burgess Brogdon Bldg. Supply,
Palmetto Health Alliance,.....

of Whom Charles Taylor is the

Appellant.

REPLY TO RETURN TO MOTION TO STRIKE IMPROPER DESIGNATIONS

Respondent The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the benefit of Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2006-E (“Respondent”) hereby submits this Reply to Appellant Charles Taylor’s (“Appellant”) Return to the Motion to Strike Improper Designations (the “Motion”).

In the Motion, Respondent moved to strike three letters and two photographs improperly designated for inclusion in the record on appeal. Neither the letters nor the photographs were presented to the lower court as required by Rule 210(c), SCACR. In the Return, Appellant seemingly concedes that the letters were not submitted to the lower court. (See Return at ¶ 3.)

For this reason, Respondent respectfully requests that this Court grant its Motion and enter an Order striking any reference to these letters from Appellant's Initial Brief and from his designation of matter to be included in the record on appeal.

As for the two undated photographs, Appellant's Return fails to remedy his failure to comply with Rule 209, SCACR. Rule 209 provides that "[t]he Designation must *clearly identify* what the party desires to have included in the Record on Appeal, and the Designation may only propose to include [material] which may be properly included in the Record on Appeal [See Rule 210(c)]." Rule 209(b), SCACR (emphasis added) (second alteration in original). Appellant's Return refuses to identify, let alone "clearly identify," which documents filed with the lower court included the purported pictures as exhibits. Instead, he attempts to put the onus on Respondent to parse through the lower court filings to locate these undated photographs he claims to have submitted. (*See* Return at ¶ 4.) Appellant bears the burden of identify which document submitted to the lower court includes the two purported photographs as exhibits in order to properly designate them for the record on appeal.

As to the photographs, the designation remains unclear. Respondent cannot determine with any certainty which "excerpts and exhibits" Appellant is proposing to include in the record. Thus, Respondent asks this Court to enter an Order directing Appellant to file an amended designation of matter, which specifies all filings with the corresponding exhibits that Appellant proposes for inclusion in the record on appeal. Despite Appellant's Return, neither Respondent nor the Court can determine whether all matters designated are proper prior to assembly of the record on appeal.

In sum, Appellant's Return remedies only one issue: His agreement that the letters identified in the designation of matter were not presented to the lower court and, therefore, will

not be included in the record on appeal. As for the second issue, Respondent respectfully requests that this Court grant its motion to strike as to the undated "exhibits," directing Appellant to file an amended designation of matter that specifies the material to be included and identifies the pleading to which it was attached to document that it was presented to the lower court.

Respectfully submitted,

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Columbia, South Carolina

8/29, 2016

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Case No. 2016-001526

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v.

Charles Taylor, Burgess Brogdon Bldg. Supply, Palmetto Health Alliance

of Whom Charles Taylor is the..... Appellant

PROOF OF SERVICE

I certify that I have served a copy of Reply to Return to Motion to Strike Improper Designations by United States Mail, prepaid, on August 29, 2016, addressed to:

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August 29, 2016

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August 29, 2016

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1220 Sumter Street
Columbia, SC 29201

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AUG 29 2016
SC Court of Appeals

Re: Bank of NY Mellon v. Charles Taylor, et al.
Case No. 2016-001526
Our File No. 36266/01512

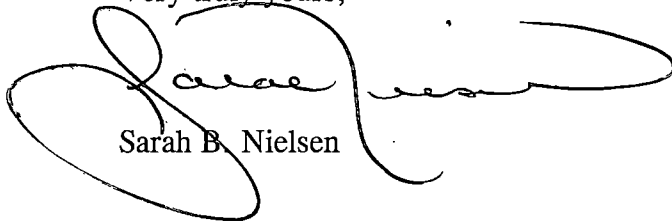
Dear Ms. Kitchings:

Enclosed please find an original and seven copies of the Reply to Return to Motion to Strike Improper Designations in the above-referenced matter. We would appreciate your filing the original and returning a clocked copy to us via our courier.

By copy of this letter, we are hereby serving a copy of same on *pro se* Appellant and counsel.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact us.

Very truly yours,



Sarah B. Nielsen

SBN:cr
Enclosures

cc: Charles Taylor, *pro se*
S. Nelson Weston, Jr., Esq.